

West Virginia Ethics Commission



Gift Guidelines

Acceptance of gifts from certain entities

The Ethics Act prohibits public officials and public employees from accepting gifts from:

- Lobbyists, or
- Any person whom the official or employee knows or has reason to know:
 - (A) Is doing or seeking to do business of any kind with his or her agency;
 - (B) Is engaged in activities which are regulated or controlled by his or her agency; or
 - (C) Has financial interests which may be substantially and materially affected, in a manner distinguishable from the public generally, by the performance or nonperformance of his or her official duties.

Acceptance of certain gifts is permitted

Notwithstanding the general prohibitions set forth in the prior section against public officials and employees accepting gifts, the Ethics Act provides that the following types of gifts **may** be accepted by public employees or public officials from lobbyists or others:

- (A) Meals and beverages of any dollar value may be accepted if the person purchasing the meal is present;
- (B) Ceremonial gifts or awards which have insignificant monetary value;
- (C) Unsolicited gifts of nominal value or trivial items of informational value are permissible if the value of any one item, or a combination of items from the same source, given to a public official or employee does not total more than \$25 in one

calendar year. This exception and the \$25 limit apply to meals and beverages if the person purchasing them is not present;

- (D) Reasonable expenses for food, travel and lodging of the official or employee for a meeting at which the official or employee participates in a panel or has a speaking engagement. A public official or employee **may not** accept expenses for amenities at the event such as free golf or spa treatments unless they are part of the room package for all guests staying at the hotel. Reasonable expenses for food, travel and lodging for one guest to attend may be accepted;
- (E) Gifts of tickets or free admission extended to a public official or public employee to attend charitable, cultural or political events if the purpose of such gift or admission is a courtesy or ceremony customarily extended to the office and the tickets are given by the sponsor of the event. Free tickets to sporting events may only be accepted if the ticket is \$25 or less and the ticket is given by a sponsor of the event. If the price of entrance is greater than \$25, an official may accept the ticket only if it is incidental to the conduct of official or ceremonial duties;
- (F) Gifts that are purely private and personal in nature, or
- (G) Gifts from relatives by blood or marriage or a member of the same household.

Solicitation of gifts

- The Ethics Act provides that public officials and public employees may not solicit a gift unless the solicitation is for a charitable purpose, and the charitable purpose must be one from which they and their immediate family members derive no direct personal benefit. (However, see the exceptions set forth below.)
- Public officials and employees may not directly solicit a subordinate for any gift even if the gift is for a charitable purpose.
- The Ethics Act's prohibition against solicitation of gifts does not apply to solicitation of political contributions. However, W. Va. Code § 3-8-12(j), which relates to the regulation and control of elections, provides: "A person may not solicit any contribution, other than contributions to a campaign for or against a county or local government ballot issue, from any nonelective salaried employee of the state government or of any of its subdivisions"
- The manner of solicitation must conform with the requirements of the Commission's Legislative Rule, W. Va. Code R. § 158-7-7, including restrictions on oral solicitations. The rules for solicitations by law enforcement officers are set forth in W. Va. Code R. § 158-7-7.
- Fundraising activities based on an exchange of value are not gift solicitations and are permissible.

- A public agency may solicit funding and support for agency programs when the Legislature has expressly given it authority to do so.

Reporting of gifts

Certain public officials and employees must report gifts on a form which must be filed annually with the Ethics Commission. The Ethics Act requires the following individuals to file a Financial Disclosure Statement:

- (1) All elected officials in this state, including, but not limited to, all persons elected statewide, all county elected officials, municipal elected officials in municipalities which have, by ordinance, opted to be covered by the disclosure provisions, all members of the several county or district boards of education and all county or district school board superintendents;
- (2) All members of state boards, commissions and agencies appointed by the governor; and
- (3) [Executive department Cabinet] Secretaries of departments, commissioners, deputy commissioners, assistant commissioners, directors, deputy directors, assistant directors, department heads, deputy department heads and assistant department heads.

Financial Disclosure Statements include a category, number 12, entitled "Gifts." In that category, a filer must disclose all gifts which he or she has received, including meals and beverages which have a total value of more than \$100, from a person, business or organization which has a direct and immediate interest in a governmental activity over which he or she has control unless the gift is required to be reported by a registered lobbyist. (Note that gifts from registered lobbyists must be reported by lobbyists on their Lobbyist Activity Reports.)

Relevant legal provisions: W. Va. Code § 6B-2-5(c) and W. Va. Code R. §§ 158-7-1 through 158-7-9

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210 BROOKS STREET, SUITE 300
CHARLESTON, WV 25301-1804
(304) 558-0664 - FAX (304) 558-2169
ethics@wv.gov ethics.wv.gov

Re-issued 6/4/2020